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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,349	06/09/2000	Thomas Boucino	9040.7	2701
20792	7590	03/24/2004	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			NGUYEN, CHAU N	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			PAPER NUMBER	

2831

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

402

Office Action Summary	Application No. 09/591,349	Applicant(s) BOUCINO, THOMAS	
	Examiner Chau N Nguyen	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-29 and 40-42 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 is/are allowed.
- 6) ☒ Claim(s) 9-29 and 40-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-29 and 40-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9, lines 11-12, "pairs of twisted pairs of insulated conductors" is unclear to how these pairs relate to the twisted pair recited early in the claim.

Claim 13, lines 12-13, "pairs of twisted pairs of insulated conductors" is unclear to how these pairs relate to the twisted pair recited early in the claim.

Claim 25, lines 12-13, "pairs of twisted pairs of insulated conductors" is unclear to how these pairs relate to the twisted pair recited early in the claim.

Claim 40, lines 9-10, "pairs of twisted pairs of insulated conductors" is unclear to how these pairs relate to the twisted pair recited early in the claim.

Claims 10-12, 14-24, 26-39, 41 and 42 are included in this rejection because of dependency.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Prudhon (6,566,605).

Prudhon discloses a communications cable comprising a cable jacket (5), a spacer (10) extending within the cable jacket, the spacer having a longitudinally extending center portion and plurality of longitudinally extending wall portions

radiating from the center portion such that the cross-section of the spacer is radially symmetric, the longitudinally extending wall portions decreasing in thickness over only a portion thereof from the center portion to the cable jacket (Fig. 1, the portion of the extending wall near the cable jacket being decreased), the spacer and the cable jacket defining a plurality of compartments within the cable jacket, and a twisted pair of insulated conductors being disposed in each of the plurality of compartments, wherein the compartments are configured such that distances between the twisted pairs of insulated conductors that are in diametrically opposed compartments are substantially the same.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prudhon in view of Boucino et al.

Prudhon discloses the invention as claimed except for the compartments having a helical configuration, the twisted pairs extending helically about the

longitudinal axis of the cable (claim 12), and each of the twisted pairs having a different lay length (claim 11).

Boucino et al. discloses a communications cable comprising a spacer having compartments with a helical configuration. It would have been obvious to one skilled in the art to modify the compartments of Prudhon to have a helical configuration to hold the twisted pairs together as taught by Boucino et al. (col. 4, lines 15-18).

Boucino et al. discloses a communications cable comprising a plurality of twisted pairs, each having a different lay length. It would have been obvious to one skilled in the art to provide each twisted pair of Prudhon with a unique lay length which is different from one another to improve the cross-talk among the pairs as taught by Boucino et al.

Allowable Subject Matter

7. Claims 5-8 are allowed.
8. Claims 13, 25 and 40 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

9. Claims 14-24, 26-29, 41 and 42 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest a cable comprising all the features as recited in the claims and in combination with the compartments being configured such that distances between the twisted pairs of insulated conductors that are in diametrically opposed compartments are substantially the same (re claims 13, 25 and 40).

Response to Arguments

11. Applicant's arguments with respect to claim 9 have been considered but are moot in view of the new ground(s) of rejection.

Summary

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Chau N Nguyen", with a stylized flourish at the end.

Chau N Nguyen
Primary Examiner
Art Unit 2831